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February 6, 2006

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc., Inc.
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

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FEB - 6 2006

Federal Communications Commission
Office of Secretary

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In re: WT Docket No. 02-55
ESMR Election – James A. Kay, Jr.

Dear Ms. Dortch:

Transmitted herewith for association with the above-referenced docket are copies of an election to relocate the 800 MHz licenses identified herein to the new ESMR portion of the 800 MHz band submitted to the 800 MHz Transition Administrator on behalf of James A. Kay, Jr.

Please direct any questions or correspondence concerning this matter to the undersigned.

Very truly yours,



Robert J. Keller
Counsel for James A. Kay, Jr.

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800 MHz Transition Administrator, LLC
c/o Steve Lederman
Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044-0407

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FEB - 6 2006

Federal Communications Commission
Office of Secretary

In re: WT Docket No. 02-55
James A. Kay, Jr.
Election to Relocate Incumbent 800 MHz Licenses to the ESMR Band

Dear Mr. Lederman:

Pursuant to Federal Communication Commission ("FCC") *Memorandum Opinion and Order* (FCC 05-174; released October 5, 2005), and the January 11, 2006, Press Release of the Transition Administrator ("TA"), James A. Kay, Jr. ("Kay"), to the extent required, hereby gives notice of his election to relocate the 800 MHz licenses identified herein to the new ESMR portion of the 800 MHz band.

Attachment A hereto is a list of the call signs subject to this election.¹ As of November 22, 2004, the channels that are the subject of this election were operating in a qualified "800 MHz Cellular System" mode (as defined for these purposes) by virtue of their incorporation into the iDen system being operated in the Los Angeles area by Nextel. Specifically, pursuant to short spacing agreements and spectrum lease agreements with Nextel, these channels have been incorporated into the iDen system operated by Nextel.²

Insofar as the spectrum authorized under these licenses is incorporated into the Nextel iDen system by Kay's contractual consent, Kay submits that he is already covered under the prior election by Nextel.³ This notice is being filed out of an abundance of caution.

By making this spectrum available for incorporation into a qualified cellular system through contractual arrangements, Kay is entitled to be credited with such cellular configuration for 800 MHz re-configuration purposes. The Kay authorizations, but for the contractual

¹ As to those call signs that are subject to the enforcement proceedings in WT Docket No. 94-147, this election is subject to and conditioned upon the final Commission resolution of those proceedings.

² Pursuant to several short-spacing agreements and spectrum lease agreements, Nextel has incorporated a number of 800 MHz channels licensed by Kay into its iDen system. In the case of the spectrum lease agreements, Nextel's iDen operations are undertaken under the auspices of Kay's licenses. In the case of the short-spacing agreements, Kay retains his licenses, but is precluded from operating them in a manner that would interfere with Nextel's iDen operations.

³ See the January 21, 2005, ESMR election notice filed by Nextel Partners, Inc.

ESMR Election
James A. Kay, Jr.
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arrangements with Nextel, currently stand as encumbrances to Nextel's geographic authorization. Kay seeks to be relocated to the new ESMR band in such a manner that Nextel would have the same encumbrances as currently applies in the lower portion of the band. In other words, Kay's relocated channels would encumber the Nextel system no more and no less than they do now. This is fully consistent with the letter and the spirit of the 800 MHz reconfiguration plan, in that existing 800 MHz licensees are only entitled to "comparable" facilities.

Kay understands and accepts that, in the event the contractual arrangements with Nextel are terminated for any reason and the unfettered use of the spectrum reverts back to Kay, he would be obligated to establish his own fully compliant ESMR system. Kay would, in that event, establish a fully compliant ESMR system on his authorized spectrum within the composite footprint of his existing authorization. Kay further understands that he is not be entitled to, and he does not seek, any compensation for facilities necessary to satisfy this obligation. He seeks only applicable transactional costs associated with relocation to the ESMR band.

Please direct any questions or correspondence concerning this matter to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert J. Keller", with a stylized flourish at the end.

Robert J. Keller
Counsel for James A. Kay, Jr.

ESMR Election
James A. Kay, Jr.
February 6, 2006

ATTACHMENT A

<u>Call Sign</u>	<u>Svc</u>	<u>Exp. Date***</u>
WNIZ676	GX	01/21/1998
WNJA910	YX	06/22/1998
WNJL306	YX	12/22/1997
WNKV762	YX	03/21/1999
WNMT755	GX	05/11/1998
WNMY402	YX	10/31/2000
WNMY773	GX	01/06/1999
WNPJ874	YX	06/07/1998
WNSK552	YX	08/10/1998
WNVL794	GX	02/18/1998
WNVW779	GX	05/11/1998
WNWB268	GX	05/17/1998
WNWB332	GX	05/11/1998
WNWK982	GX	05/11/1998
WNWN703	GX	03/30/1998
WNWQ651	GX	05/11/1998
WNXB280	GX	04/16/1998
WNXG372	GX	05/17/1998
WNXQ353	GX	05/11/1998
WNXQ911	GX	01/27/1998
WNXS450	GX	05/11/1998
WNXS753	GX	01/29/1997
WNXW280	GX	05/11/1998
WNXW327	YX	06/01/1998
WNXW549	GX	05/11/1998
WNYQ437	GX	05/11/1998
WNYR747	GX	05/11/1998
WNZY505	GX	05/11/1998
WNZZ731	GX	09/24/1997
WPAP683	GX	10/05/1997
WPAZ639	GX	06/02/1998
WPBW517	GX	04/08/1998
WPBZ518	GX	08/10/1998
WNGC552*	GX	04/20/2013
WNPP680*	GX	06/09/2008
WNVQ272*	GX	07/19/2010
WNWB345*	GX	09/01/2007
WNWQ646*	GX	07/19/2010
WNXS439*	GX	10/06/2008
WNXS451*	GX	04/01/2007
WPFP295*	GX	10/05/2009
WPHU589*	GX	07/14/2010
WPXE724*	GB	03/18/2013
WPYH567*	GB	08/12/2013
WQDA729*	GX	12/31/2014
WQDA740*	GX	12/31/2014
WNXW487**	GB	11/23/1997

* Licensed to Third District Enterprises, LLC (owned and controlled by James A. Kay, Jr.).

** Licensed to Buddy Corp. (owned and controlled by James A. Kay, Jr.)

*** As to those licenses showing past expiration dates, timely renewal applications are pending.

CERTIFICATION

I, James A. Kay, Jr., hereby certify on this 6th day of February 2006, under penalty of perjury, that the factual statements set forth in the foregoing letter of legal counsel regarding election of relocation to the ESMR portion of the 800 MHz band are true and correct of my personal knowledge and are made in good faith.


James A. Kay, Jr.

Dated: February 6, 2006